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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/750,221

01/02/2004

Keneth K. Cyr

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EXAMINER

SEREBOFF, NEAL

ART UNIT

PAPER NUMBER

3626

MAIL DATE

DELIVERY MODE

08/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/750,221

Applicant(s)

CYR ET AL.

Examiner

Neal R. Sereboff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. In the amendment filed 6/27/2007, the following has occurred: Claims 19 – 27 have been amended. Now claims 1 – 27 are pending.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1 – 27** are rejected under 35 U.S.C. 102(b) as being anticipated by DeBusk et al., U.S. Patent Number 5,682,728 (see reference A on the attached PTO-892).
4. As per claim 1, DeBusk teaches a system for managing clinically related supply procurement according to outcomes, comprising:

- A first interface to receive patient supply data captured from at least one clinically related site, the patient supply data comprising patient supply consumption data (see column 5, lines 6 – 21 where the event is consumption);
- A second interface to receive clinical outcomes data from the at least one clinically related site (see column 4, lines 30 – 50); and
- An analytic engine, the analytic engine communicating with the first interface and the second interface to generate comparative clinical supply reports based at least on the clinical outcomes data (see column 4, line 66 through column 5 line 5 where the report is a bill of materials).

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5. As per claim 2, DeBusk teaches the method of claim 1 as described above. DeBusk further teaches the system wherein the patient supply data comprises at least one of surgical device information, pharmaceutical information, and consumable material information (see column 4, lines 35 – 50).
6. As per claim 3, DeBusk teaches the method of claim 1 as described above. DeBusk further teaches the system wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (see column 3, lines 2 – 5).
7. As per claim 4, DeBusk teaches the method of claim 1 as described above. DeBusk further teaches the system wherein the clinical outcomes data comprises at least one of patient mortality data, patient morbidity data, patient ambulatory data, patient infection data, patient prescription data, patient length of stay data, patient condition data and patient readmittance data (see column 6, lines 1 – 13 where usage per length of stay is determined).
8. As per claim 5, DeBusk teaches the method of claim 1 as described above. DeBusk further teaches the system wherein the comparative clinical supply reports comprise historical patient outcome comparisons between alternative supply selections (see column 5, lines 64 – 67).
9. As per claim 6, DeBusk teaches the method of claim 5 as described above. DeBusk further teaches the system wherein the historical patient outcome comparisons are based on a combination of at least two supply selections (see column 5, lines 51 – 54 where a supply bundle is made up of multiple supply selections).
10. As per claim 7, DeBusk teaches the method of claim 1 as described above. DeBusk further teaches the system wherein the comparative clinical supply reports comprise projected patient outcome comparisons based on alternative supply selections (see column 6, lines 7 – 13).

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11. As per claim 8, DeBusk teaches the method of claim 7 as described above. DeBusk further teaches the system wherein the projected patient outcome comparisons are based on a combination of at least two supply selections (see column 5, lines 51 – 54 where a supply bundle is made up of multiple supply selections).

12. As per claim 9, DeBusk teaches the method of claim 1 as described above. DeBusk further teaches the system wherein the comparative clinical supply reports comprise reports on clinical outcomes data broken down according to at least one of clinical procedure type, clinical department, patient condition categories, patient demographic categories, vendor information and cost ranges (see column 6, lines 47 – 60 where a patient condition supply report is created).

13. As per claim 10, DeBusk teaches a method for managing clinically related supply procurement according to outcomes, comprising:

- Receiving patient supply data captured from at least one clinically related site, the patient supply data comprising patient supply consumption data (see column 5, lines 6 – 21 where the event is consumption);
- Receiving clinical outcomes data from the at least one clinically related site (see column 4, lines 30 – 50); and
- Generating comparative clinical supply reports based at least on the clinical outcomes data (see column 4, line 66 through column 5 line 5 where the report is a bill of materials).

14. As per claim 11, DeBusk teaches the method of claim 10 as described above. DeBusk further teaches the method wherein the patient supply data comprises at least one of surgical

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device information, pharmaceutical information, and consumable material information (see column 4, lines 35 – 50).

15. As per claim 12, DeBusk teaches the method of claim 10 as described above. DeBusk further teaches the method wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (see column 3, lines 2 – 5).

16. As per claim 13, DeBusk teaches the method of claim 10 as described above. DeBusk further teaches the method wherein the clinical outcomes data comprises at least one of patient mortality data, patient morbidity data, patient ambulatory data, patient infection data, patient prescription data, patient length of stay data, patient condition data and patient readmittance data (see column 6, lines 1 – 13 where usage per length of stay is determined).

17. As per claim 14, DeBusk teaches the method of claim 10 as described above. DeBusk further teaches the method wherein the comparative clinical supply reports comprise historical patient outcome comparisons between alternative supply selections (see column 5, lines 64 – 67).

18. As per claim 15, DeBusk teaches the method of claim 14 as described above. DeBusk further teaches the method wherein the historical patient outcome comparisons are based on a combination of at least two supply selections (see column 5, lines 51 – 54 where a supply bundle is made up of multiple supply selections).

19. As per claim 16, DeBusk teaches the method of claim 10 as described above. DeBusk further teaches the method wherein the comparative clinical supply reports comprise projected patient outcome comparisons based on alternative supply selections (see column 6, lines 7 – 13).

20. As per claim 17, DeBusk teaches the method of claim 16 as described above. DeBusk further teaches the method wherein the projected patient outcome comparisons are based on a

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combination of at least two supply selections (see column 5, lines 51 – 54 where a supply bundle is made up of multiple supply selections).

21. As per claim 18, DeBusk teaches the method of claim 10 as described above. DeBusk further teaches the method wherein the comparative clinical supply reports comprise reports on clinical outcomes data broken down according to at least one of clinical procedure type, clinical department, patient condition categories, patient demographic categories, vendor information and cost ranges (see column 6, lines 47 – 60 where a patient condition supply report is created).

22. As per claim 19, DeBusk teaches one or more computer-readable media having computer-executable instructions embodied thereon for performing a method for managing clinically related supply procurement according to outcomes, the method comprising:

- Receiving patient supply data captured from at least one clinically related site, the patient supply data comprising patient supply consumption data (see column 5, lines 6 – 21 where the event is consumption);
- Receiving clinical outcomes data from the at least one clinically related site (see column 4, lines 30 – 50); and
- Generating a comparative clinical supply report based at least on the clinical outcomes data (see column 4, line 66 through column 5 line 5 where the report is a bill of materials); and
- Storing the comparative clinical supply report in computer accessible memory (see column 4, lines 50 – 65 where the data handling system is a computer).

23. As per claim 20, DeBusk teaches one or more computer-readable media of claim 19 as described above. Debusk further teaches one or more computer-readable media wherein the

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patient supply data comprises at least one of surgical device information, pharmaceutical information, and consumable material information (see column 4, lines 35 – 50).

24. As per claim 21, DeBusk teaches one or more computer-readable media of claim 19 as described above. Debusk further teaches one or more computer-readable media wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (see column 3, lines 2 – 5).

25. As per claim 22, DeBusk teaches one or more computer-readable media of claim 19 as described above. Debusk further teaches one or more computer-readable media wherein the clinical outcomes data comprises at least one of patient mortality data, patient morbidity data, patient ambulatory data, patient infection data, patient prescription data, patient length of stay data, patient condition data and patient readmittance data (see column 6, lines 1 – 13 where usage per length of stay is determined).

26. As per claim 23, DeBusk teaches one or more computer-readable media of claim 19 as described above. Debusk further teaches one or more computer-readable media wherein the comparative clinical supply reports comprises at least one historical patient outcome comparison between alternative supply selections (see column 5, lines 64 – 67).

27. As per claim 24, DeBusk teaches one or more computer-readable media of claim 23 as described above. Debusk further teaches one or more computer-readable media wherein the at least one historical patient outcome comparison is based on a combination of at least two supply selections (see column 5, lines 51 – 54 where a supply bundle is made up of multiple supply selections).



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28. As per claim 25, DeBusk teaches one or more computer-readable media of claim 19 as described above. Debusk further teaches one or more computer-readable media wherein the comparative supply report comprises projected patient outcome comparisons based on alternative supply selections (se column 6, lines 7 – 13).

29. As per claim 26, DeBusk teaches one or more computer-readable media of claim 25 as described above. Debusk further teaches one or more computer-readable media wherein the at least one projected patient outcome comparison is based on a combination of at least two supply selections (see column 5, lines 51 – 54 where a supply bundle is made up of multiple supply selections).

30. As per claim 27, DeBusk teaches one or more computer-readable media of claim 19 as described above. Debusk further teaches one or more computer-readable media wherein the comparative clinical supply report comprises a report on clinical outcomes data broken down according to at least one of clinical procedure type, clinical department, patient condition categories, patient demographic categories, vendor information and cost ranges (see column 6, lines 47 – 60 where a patient condition supply report is created).

#### ***Response to Arguments***

31. Applicant's arguments filed 6/27/2007 have been fully considered but they are not persuasive. The applicant's argument is based upon wording that is supposed to be a definition. The wording used is, "As set forth in the Detailed Description, outcomes include, for instance, 'recover times, surgical infections or other complications' and/ or other patient results, e.g., 'the mean survival time for patients receiving an antimicrobial-coated stent or infection rate for patients receiving an orthopedic prosthesis [of] certain type or manufacture.'" As the Applicant

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states within this quote, the above example is not limiting. The applicant uses the open ended words, "include, for instance" that show that any reasonable outcome may be applicable. The Applicant states that "the DeBusk's reference describes the management of consumable medical supplies by creating bills of material associated with care events within a clinical pathway."

The Examiner believes that DeBusk's bills of material are outcomes. Therefore, based upon the Applicant's own wording, the DeBusk reference anticipates the claimed invention.

32. Applicant's arguments with respect to claims 19 – 27 have been considered but are moot in view of the new ground(s) of rejection.

33. Applicant's arguments, see Rejections based on 35 U.S.C. §101, filed 6/27/2007, with respect to claims 19 – 27 have been fully considered and are persuasive. The 35 U.S.C. §101 rejection of claims 19 – 27 have been withdrawn.

### ***Conclusion***

34. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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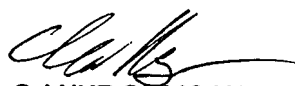
however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neal R. Sereboff whose telephone number is (571) 270-1373. The examiner can normally be reached on Mon thru Thur from 7:30am to 5pm, with 1st Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NRS/  
8/2/2007

  
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